

REMARKS/ARGUMENTS

This Amendment and Response is submitted in reply to the Office Action having a mailing date of October 5, 2006. Claims 1, 8, 10 and 16 are amended. No claims have been added by this paper. Accordingly, Claims 1-28 are pending.

The Examiner has rejected Claims 1-28 on the grounds of nonstatutory obvious-type double patenting over Claims 38-45 of U.S. Patent No. 6,736,816. As the '816 patent and the present application are commonly owned, a terminal disclaimer is submitted along with this paper. Accordingly, withdrawal of the double patenting rejection is respectfully requested.

The terminal disclaimer is being filed to expedite prosecution and simply remove the rejection. The filing of a terminal disclaimer to obviate the provisional obviousness-type double patenting rejection is not in any way an admission of the propriety of the rejection. The courts have held that the "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection." Quad Environmental Technologies Corp. v. Union Sanitary District, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991).

Claims 1-28 also stand rejected under 35 U.S.C. §102 as being anticipated by U.S. Patent No. 6,050,997 to Mullane ("Mullane"). As argued herein, reconsideration and withdrawal of the rejections under 35 U.S.C. §102 is respectfully requested.

Claims of the present application are directed to an attachment device including a shank having a first and a second end. The first end includes a securement mechanism, such as a threaded screw. The second end is adapted to receive a head of a tension link. The head is inserted into an aperture and received in a hollow cavity that is defined by a wall. The second end is deformable to allow the head of the tension link to be inserted into the hollow cavity and retained therein. The wall may include one or more expansion slots that enable the second end to deform.

The Applicant respectfully submits that the Examiner has failed to provide a reference that discloses aspects of the present invention as set forth in the above-listed claims as amended. In particular, independent Claims 10 and 22 of the present application recite a "single integral

piece” only one element that is used to engage a tension link. Mullane discloses an anchoring assembly that includes a retention cavity adapted to receive a toggle bolt. The toggle bolt is retained in the retention cavity by a retention collet that includes a portion that passes through the entrance to the retention cavity and a portion that rests against a lip of the entrance to the cavity. Accordingly, at least two separate elements are used to engage the toggle bolt. Additionally, the attachment device as set forth in the above-listed claims includes a shank with a second end that is deformable to allow the insertion of a head of a tension link. This allows the tension link to be retained in the hollow cavity without the need of an additional part. In contrast, the device disclosed by Mullane requires a retention collet and a support collar to retain the toggle bolt.

In accordance with amended independent Claims 1, 8 and 16, a wall of the second end includes at least one expansion slot that allows the second end to deform. Thus, independent Claims 1, 8 and 16 have been amended to more precisely claim this aspect of the present invention. In particular, the amended claims recite an expansion slot disposed on a portion of the second end of the shank. In contrast, the expansion slot disclosed by Mullane and cited by the Examiner is disposed on the retention collet and is not an element of the shank.

To constitute anticipation, all material elements of the claim must be found in one prior art source. In re Marshall, 198 USPQ 344 (CCPA 1978); In re Kalm, 154 USPQ 10 (CCPA 1967). Additionally, the elements of the reference must be arranged as required by the claim. In re Bond, 15 USPQ 2d 1566 (Fed. Cir. 1990). Applicant respectfully submits that the cited references do not teach all of the material elements and do not arrange the elements as required by the rejected claim language.

*Application No. 10/776,094*

Based upon the foregoing, Applicants believe that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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Date: 2/5/07